

[Capital Access for Small Business Banks Act \(H.R. 2789\)](#)

Background and Purpose

The *Capital Access for Small Business Banks Act* (H.R. 2789) would invigorate local economies by freeing up typically-small financial institutions, namely Subchapter S banks, to raise needed capital in the face of an increasing regulatory regime so that they can keep serving their communities.

At approximately 2,300 strong, Subchapter S banks account for about one-third of all banks in the US. 90% of these are rural, primarily serving the needs of their local families and businesses, and over 90% are small in size with assets under \$1 billion. These institutions are a key part of our national economic engine.

Unfortunately, the climate of increasing regulation after the financial crisis of 2008 has put added burden on these smaller institutions—a burden that is disproportionate to the risk they pose to the banking system. Unlike other S corporations, S corp. banks need to meet these capital requirements while abiding by limits on the number and type of allowable shareholders that constrain their ability to raise capital. These banks are also prohibited from organizing as other, more flexible pass-through entities such as limited liability companies, which would create greater opportunities to raise capital.

S corp. banks require an opportunity to raise capital in new ways, without introducing new risks into the financial system, in order to thrive in the current climate and continue to provide everyday Americans with important financial services.

Legislative Solution

The *Capital Access for Small Business Banks Act* would help provide opportunities for S corp. banks, as well as thrifts and their holding companies, to raise needed capital by:

- 1) Raising the limit of shareholders for S corp. banks from 100 to 500.
- 2) Allowing S corp. banks to issue preferred stock without a cap.
- 3) Preserving sound tax treatment of S corp. banks by allowing preferred stock dividends to be deductible by the bank and ordinary income for the holder.

Over the years, the limit on the number of shareholders allowed for S corps has steadily grown to meet the needs of a growing small-business economy. In the current regulatory environment, and without the freedom to organize in alternative forms (without being subject to the double-taxation of a C corp.), it is time to give S corp. banks the necessary freedom to meet their capital requirements, grow their businesses, and better serve their communities.